

Message Text

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PAGE 01 STATE 176521
ORIGIN NEA-10

INFO OCT-01 EUR-12 ISO-00 ERDA-05 FEA-01 AID-05 PM-05
ACDA-07 CIAE-00 INR-07 IO-13 L-03 NSAE-00 NSC-05
EB-08 NRC-05 OES-07 DODE-00 SS-15 SP-02 SSO-00
NSCE-00 INRE-00 COME-00 /111 R

DRAFTED BY ERDA:JGLASGOW/NEA/INS:RFOBER,JR.
APPROVED BY NEA/INS:DKUX

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FM SECSTATE WASHDC
TO AMCONSUL BOMBAY IMMEDIATE
AMEMBASSY PARIS IMMEDIATE
INFO AMEMBASSY NEW DELHI IMMEDIATE

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FOR COURTNEY - PARIS PASS NYE AND SIEVERING

E.O. 11652: N/A

TAGS: TECH, IN

SUBJECT: TARAPUR FEASIBILITY STUDY

REF: BOMBAY 1786

1. EVEN BEFORE THE FINAL SENTENCE DISPUTED BY GOI WAS
ADDED, THE INDEMNITY CLAUSE CLEARLY IMPOSED ON GOI OBLI-
GATION TO INDEMNIFY ERDA AND ITS CONTRACTORS. NEW SENTENCE
DOES NOT MATERIALLY ADD TO THIS OBLIGATION PREVIOUSLY
ACCEPTED BY GOI. IT MERELY CLARIFIES G.E.'S RIGHT TO
EXERCISE ITS CONTRACTORS' RIGHTS DIRECTLY RATHER THAN
THROUGH ERDA. NEW SENTENCE ALSO STATES THE COMMONPLACE
PRINCIPLE THAT INDEMNITY AGREEMENTS ARE ENTERED INTO TO
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PAGE 02 STATE 176521

RELIEVE A PERSON OF LIABILITY, EVEN IF THAT PERSON IS AT
FAULT. THAT PRINCIPLE WAS PREVIOUSLY CONTAINED IN CLAUSE 9
AND THE NEW SENTENCE ADDS NOTHING TO IT. NEVERTHELESS G.E.
IS INSISTENT ON THESE POINTS FOR SAKE OF CLARITY.

2. BASED ON PREVIOUS CONVERSATIONS WITH G.E., WE BELIEVE
G.E. MAY ACCEPT DELETION OF NEW SENTENCE IN CLAUSE 9 IN

RETURN FOR INCORPORATION OF SATISFACTORY ASSURANCE IN LEGAL
OPINION ON SUBJECT OF NEW SENTENCE. IN THIS REGARD, WE
NOTE U.S. POINT PREVIOUSLY COMMUNICATED TO GOI THAT LEGAL
OPINION SHOULD FOLLOW LINES OF PREVIOUS GOI LEGAL OPINION

REGARDING TARAPUR. LEGAL OPINION PROVIDED BY GOI WAS SUB-
STANTIALLY SHORTER THAN 1964 GOI LEGAL OPINION. FAILURE
OF THAT OPINION TO ADDRESS LEGAL POINTS TROUBLING G.E. IS
PRINCIPAL REASON FOR USG SUGGESTION OF A NEW SENTENCE IN
CLAUSE 9. U.S. ASSUMPTION WAS THAT ADDITION OF A SINGLE
SENTENCE TO THE PROPOSED AGREEMENT WOULD BE A STRAIGHT-
FORWARD AND EXPEDITIOUS RESOLUTION OF THE LEGAL POINT
RAISED BY G.E.

3. WE NEED FURTHER EXPLANATION OF GOI INDEMNITY CONCERN.
IN PARTICULAR, WE SHOULD INQUIRE WHETHER GOI WISHES TO
PROPOSE ALTERNATE LANGUAGE EMBRACING CONCEPT OF LAST SEN-
TENCE IN CLAUSE 9 OR WOULD CONSIDER REVISING LEGAL OPINION
TO COVER THE POINT.

4. REFTTEL, PARA 2, INDICATED THAT SETHNA "STILL HAS
PROBLEMS WITH FIVE OR SIX CLAUSES OF THE NEW TEXT."
PLEASE IDENTIFY THESE PROBLEMS SPECIFICALLY AND ADVISE
AS TO DEPTH OF GOI POSITION RE THESE PROBLEMS, I.E. ARE
THEY MAJOR AND/OR WILL GOI RECEDE? VANCE

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Message Attributes

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Concepts: DISPUTES, COMPENSATION, NUCLEAR POWER PLANTS, STUDIES, AMENDMENTS
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Sent Date: 28-Jul-1977 12:00:00 am
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Disposition Approved on Date:
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